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ABSTRACT

The purpose of this bill is to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit states to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents. The Student Adjustment Act of 2001, which includes a special ruling for children in middle or secondary school, focuses on restrictions on authority, exemption from numerical limitations, grandfather provisions, confidentiality of information, eligibility of cancellation applicants for federal education assistance, and proposed, interim, and final regulations. (SM)

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UD034859

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107TH CONGRESS
1ST SESSION

H. R. 1918

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2001

Mr. CANNON (for himself, Mr. BERMAN, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

UD034859

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Adjustment Act of 2001".

SEC. 2. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat 3009–672; 8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 3. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENT STUDENTS.

(a) IN GENERAL.—Section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b) is amended—

(1) in paragraph (3) of subsection (b)—

(A) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)" each place it appears;

(B) by redesignating such paragraph as paragraph (5); and

(C) by moving such paragraph to follow paragraph (4);

(2) by inserting after paragraph (2) of subsection (b) the following new paragraph:

"(3) SPECIAL RULE FOR CHILDREN IN MIDDLE OR SECONDARY SCHOOL.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Attorney General shall cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

"(i) the alien has not, at the time of application, attained the age of 21;

"(ii) the alien was physically present in the United States on the date of the enactment of the Student Adjustment Act of 2001 and has been physically present in the United States for a continuous period of not less than five years immediately preceding the date of such application;

"(iii) the alien has been a person of good moral character during such period; and

"(iv) the alien, at the time of application, is enrolled at or above the 7th grade level in a school in the United States or is

enrolled in or actively pursuing admission to an institution of higher education in the United States as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

The Attorney General shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this paragraph without being placed in removal proceedings. An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of clause (ii) by virtue of brief, casual, and innocent absences from the United States.

"(B) RESTRICTIONS ON AUTHORITY.—The provisions of this paragraph shall not apply to any of the following aliens:

"(i) An alien who is inadmissible under section 212(a)(2)(A)(i)(I) or is deportable under section 237(a)(2)(A)(i) (relating to crimes of moral turpitude), unless the Attorney General determines that the alien's removal would result in extreme hardship to the alien, the alien's child, or

(in the case of an alien who is a child) to the alien's parent.

"(ii) An alien who is inadmissible under section 212(a)(3) or is deportable under section 237(a)(2)(D)(i) or 237(a)(2)(D)(ii) (relating to security and related grounds)."; and

(3) in subsection (d)(1)(A), by inserting "or (b)(3)" after "subsection (b)(2)".

(b) EXEMPTION FROM NUMERICAL LIMITATIONS.—Section 240A(e)(3) of such Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) Aliens described in subsection (b)(3).".

(c) GRANDFATHER PROVISIONS.—For purpose of applying section 240A(b)(3) of the Immigration and Nationality Act (as inserted by subsection (a)) with respect to an application filed under such section not later than 120 days after the effective date of regulations implementing this section—

(1) an individual shall be considered to be under the age of 21 if the individual's 21st birthday occurs after the date of the enactment of this Act

but no more than 120 days after the effective date of such regulations; and

(2) an individual shall be treated as meeting the requirements of clauses (i), (ii), and (iv) of subparagraph (A) of such section if—

(A) the individual would have met such requirements based upon an application filed at any time during the 4-year period ending on the date of the enactment of this Act; and

(B) the individual has graduated from, or is at the time of application enrolled in, an institution of higher education in the United States (described in clause (iv) of such subparagraph).

(d) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(1) use the information furnished by the applicant pursuant to an application filed under the amendments made by this section for any purpose other than to make a determination on the application;

(2) make any publication whereby the information furnished by any particular individual can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Whoever knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.

(e) ELIGIBILITY OF CANCELLATION APPLICANTS FOR FEDERAL EDUCATIONAL ASSISTANCE.—Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

(1) by striking "; or" at the end of paragraph (6) and inserting a comma;

(2) by striking the period at the end of paragraph (7) and inserting ", or"; and

(3) by adding at the end the following new paragraph:

"(8) an alien who has been granted relief under section 240A(b)(3) of the Immigration and Nationality Act, or with respect to whom an application

under such section has been filed but not finally been adjudicated.".

(f) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall publish proposed regulations implementing this section.

(2) INTERIM, FINAL REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Attorney General shall publish final regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

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